

REMARKS

In response to the Office Action mailed June 26, 2007, Applicant respectfully requests reconsideration. Claims 1-10 were last presented for examination. Claims 1-10 are rejected. By the foregoing Amendments, claims 1-10 have been cancelled and claims 11-22 have been added. No new matter has been added. Thus, upon entry of this paper, claims 11-22 will be pending in this application. Of these twelve (12) claims, three (3) claims (claims 11, 19 and 22) are independent.

Based upon the above Amendment and following Remarks, Applicant respectfully requests that all outstanding objections and rejections, be reconsidered, and that they be withdrawn.

Art of Record

Applicant thanks the Examiner for returning form PTO/SB/08a filed by Applicants on January 12, 2005, which has been initialed by the Examiner indicating that the Examiner has considered the references cited therein.

Claim Rejections - 35 USC §112

The Office Action rejects claims 1-10 under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the invention. (*See*, Office Action, pg. 2,12.) Claims 1-10 have been cancelled and recast as new claims 11-18, above, thus overcoming the rejection or making this rejection moot. New claims 19-22 have also been written to avoid a similar rejection. Applicant respectfully requests that the rejection be reconsidered and withdrawn.

Claim Rejections - 35 USC §101

The Office Action rejects claims 1-10 under 35 USC §101, as being directed to nonstatutory subject matter. Specifically, the Office Action notes that the claims appear to recite parts of the human body in combination with the claimed structure. (*See*, Office Action, pg. 2,

T4.) Claims 1-10 have been cancelled and recast as new claims 11-18, above, thus overcoming the rejection or making this rejection moot. Applicant respectfully requests that the rejection be reconsidered and withdrawn.

Claim Rejections - 35 USC §102(e)

The Office Action rejects claims 1-10 under 35 USC §102(e), as being anticipated by U.S. Patent No. 7,172,422 to Essiger ("Essiger"). The Office Action alleges that "Essiger discloses an arrangement of two implants 4 comprising growth-stimulating substance (column 1 line 33) to form new bone around the implants." (See, Office Action, pg. 3, ~6.) Essiger is directed to a device having a bending-resistant bar or strip supported by two implants which is used to "avoid the aforementioned disadvantages of atrophy", referring to the problem described in Essiger wherein bone replacement materials placed along a jaw bone are pressure-sensitive and can atrophy or be resorbed during the healing and building phase. (See, Essiger, col. 1, 11. 24-26 and 36-37.) Essiger explains that bone replacement materials refer to synthetic bone 5 material, the patient's own ground bone, and/or Bio-Oss™. (See, Essiger, Col. 1, 11. 13-14, 22 and 34-35.) The problem being addressed by Essiger is that pressure applied to that material, without the bar/strip support provided by Essiger to maintain the space in which that material is placed, will cause the material to atrophy or be resorbed by the body. It is clear that Essiger does not teach or suggest an implant arrangement comprising "at least one ***growth stimulating substance (GSS) disposed on said implants*** wherein... said at least one GSS is configured to be ***released from said implants into said space*** to form new bone" (emphasis added) as recited in Applicant's independent claim 11, since in Essiger a material for generating or reshaping the bone is actually placed between the bone and the protective bar/strip, rather than having GSS released from implants into a space or void.

Furthermore, it would not have been obvious to modify Essiger so that GSS is released from the implants or bar/strip into a void, since the problem being addressed by Essiger is one in which material is being placed into a space between the bone and the bar/strip. In other words, if no ground bone or synthetic bone or other materials were being placed into the space between the defective bone and the protective bar/strip, there would not have been nothing to protect from atrophy or resorption. Therefore, Essiger does not teach or suggest the Applicant's invention as

presently claimed. Accordingly, Applicant respectfully requests that this rejections be reconsidered and withdrawn.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Dependent Claims

The dependent claims incorporate all of the subject matter of their respective independent claims and add additional subject matter, which makes them *a fortiori* independently patentable over the art of record. Accordingly, Applicant respectfully requests that the outstanding rejections of the dependent claims be reconsidered and withdrawn.

Conclusion

In view of the foregoing, this application should be in condition for allowance. A notice to his effect is respectfully requested.

Please charge a one month extension fee to our Deposit Account No. 22-0185, under Order No. 21547-00301-US 1 from which the undersigned is authorized to draw.

Dated: October 24, 2007

Respectfully submitted,

By 

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